

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 99-0416P
Sales and Use Tax
Calendar Year 1995

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ISSUE(S)

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer protests the penalty assessed on an audit completed on March 17, 1999.

Taxpayer failed to self-assess and remit use tax on clearly taxable items, primarily samples given away, office supplies, computer equipment, building materials and other miscellaneous items. Taxpayer is an Indiana corporation that was audited previously and failed to accrue tax on clearly taxable items.

In a letter dated August 2, the taxpayer was asked to provide additional evidence within twenty days or request a hearing, and if no additional evidence was provided the decision would be based on the information contained in the file. The department makes its decision based upon the taxpayer's protest letter dated July 6, 1999, which refers to a penalty protest letter dated June 11, 1999, and information contained in the audit file.

ISSUE

I. Tax Administration – Penalty

DISCUSSION

Taxpayer requests a waiver of penalty and states that the parent company maintained a good relationship with the Indiana Department of Revenue by timely filing tax returns and paying taxes due and, to its knowledge, the parent has not been previously audited. Taxpayer claims the parent and its subsidiaries at all times exercised reasonable care, caution and diligence in attempting to report and remit any tax owed.

Taxpayer's audit revealed that less than one percent (1%) of the use tax was paid in calendar year 1995 and taxpayer also made tax-exempt sales without exemption certificates.

The Indiana Use tax laws are clear in the Indiana Code and Regulations. The taxpayer was negligent in failing to self-assess and remit use tax on clearly taxable items.

FINDING

Taxpayer's protest is denied.